



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 7**

11201 Renner Boulevard  
Lenexa, Kansas 66219

**DEC 06 2013**

**CERTIFIED MAIL  
RETURN RECEIPT REQUESTED**

Article No.: 7012 1640 0001 7091 7064

Mr. Allen Conner  
Conner and Conner, Incorporated  
509 Maple Street  
Arnold, Nebraska 69120

Re: Conner and Conner, Incorporated, SW ¼ of Section 27, Township 17 North, Range 25 West,  
Custer County, Nebraska  
NPDES No. – N/A

Dear Mr. Conner:

On July 10, 2013, a representative of the U.S. Environmental Protection Agency performed a compliance evaluation inspection at the above referenced facility. The inspection was conducted under the authority of Section 308 of the Clean Water Act. A copy of the inspection report is enclosed on compact disc for your information.

The EPA is presently reviewing the findings of the report to determine the regulatory status of your facility. At the time of the inspection your facility was not confining any cattle or cow/calf pairs. However, it appeared that the lack of cattle at that time may have been part of the cyclical nature of your operation. The number of cattle and cow/calf pairs at your operation and the period of time they are confined are pertinent to the EPA's evaluation.

Pursuant to this CWA Section 308 information request, please provide the EPA with the number of cattle and cow/calf pairs currently confined at your operation. The number of feeder cattle and breeding cattle confined within the pens is particularly relevant. Also relevant for consideration are the number of cattle that have access to pasture, since cattle that have access to pasture, oftentimes, are not considered as part of the animal feeding operation for regulatory purposes. Please provide copies of all animal inventory records or other documentation that establish the number of cattle confined at your facility from July 10, 2013, to the date you receive this letter. For this period please provide a monthly average and a monthly maximum number of cattle confined at the facility.

Section 308 of the CWA, 33 U.S.C 1318, authorizes the EPA to request information from any person to determine compliance with the CWA. Please certify your response by completing the attached Certification of Response to Request for Information.



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The required information must be submitted no later than fourteen (14) calendar days after receipt of this letter. Please send your response to:

Angela DeAngelo-Acord  
U.S. EPA Region 7  
Water, Wetlands and Pesticides Division  
11201 Renner Blvd.  
Lenexa, KS 66219

Although the information requested must be submitted to the EPA, you are entitled to assert a business confidentiality claim pursuant to the regulations set forth in 40 C.F.R. Part 2, Subpart B. If the EPA determines the information you have designated meets the criteria in 40 C.F.R. § 2.208, the information will be disclosed only to the extent and by means of the procedures specified in Subpart B. Unless a confidentiality claim is asserted at the time the requested information is submitted, the EPA may make the information available to the public without further notice to you.

Although the EPA seeks your cooperation, compliance with this Information Request is required by law. Failure to provide all the information required or the making of any false material statements or representation in response to this letter, constitute violations of Section 308 of the CWA.

If there are any questions regarding this request or the EPA's evaluation of your operation, please contact Angela DeAngelo Acord at (913) 551-7914.

Sincerely,



Karen A. Flournoy  
Director  
Water, Wetlands and Pesticide Division

Enclosure

cc: Jon Kenning, Nebraska Department of Environmental Quality

## **CERTIFICATION OF RESPONSE TO REQUEST FOR INFORMATION**

State of \_\_\_\_\_ )  
 )  
 )  
County of \_\_\_\_\_ )

I certify under penalty of law that I have personally examined and am familiar with the information submitted in response to EPA's Request for Information and all documents submitted herewith, and that, to the best of my knowledge, the submitted information is true, accurate, and complete, and that all documents submitted herewith are complete and authentic unless otherwise indicated. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

\_\_\_\_\_  
NAME (print or type)

\_\_\_\_\_  
TITLE (print or type)

\_\_\_\_\_  
Signature

Sworn to before me this \_\_\_\_\_  
day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Notary Public



## Freedom of Information Act (FOIA)

You are here: [EPA Home](#)   [FOIA](#)   [Public Information Regulations \(40CFR\)](#)   Part 2.208

### **EPA Part 2 Section 208**

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TITLE 40--PROTECTION OF ENVIRONMENT

CHAPTER I--ENVIRONMENTAL PROTECTION AGENCY

PART 2--PUBLIC INFORMATION--Table of Contents

Subpart B--Confidentiality of Business Information

Sec. 2.208 Substantive criteria for use in confidentiality determinations.

Determinations issued under Secs. 2.204 through 2.207 shall hold that business information is entitled to confidential treatment for the benefit of a particular business if--

(a) The business has asserted a business confidentiality claim which has not expired by its terms, nor been waived nor withdrawn;

(b) The business has satisfactorily shown that it has taken reasonable measures to protect the confidentiality of the information, and that it intends to continue to take such measures;

(c) The information is not, and has not been, reasonably obtainable without the business's consent by other persons (other than governmental bodies) by use of legitimate means (other than discovery based on a showing of special need in a judicial or quasi-judicial proceeding);

(d) No statute specifically requires disclosure of the information; and

(e) Either--

(1) The business has satisfactorily shown that disclosure of the information is likely to cause substantial harm to the business's competitive position; or

(2) The information is voluntarily submitted information (see Sec. 2.201(i)), and its disclosure would be likely to impair the Government's ability to obtain necessary information in the future.